
UTAH LABOR COMMISSION

DAVID KNECHT,

Petitioner,

vs.

**UHAUL COMPANY OF UTAH
and LIBERTY INSURANCE
CORPORATION,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 07-0590

Uhaul Company of Utah and its insurance carrier, Liberty Insurance Corporation (referred to jointly as "Uhaul"), ask the Utah Labor Commission to review Administrative Law Judge Hann's award of benefits to David Knecht under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63-46b-12 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Knecht claims workers' compensation benefits for a work accident that occurred on August 21, 2001, allegedly causing injury to his left hip. The parties filed a stipulation of facts, waived the evidentiary hearing, and requested appointment of a medical panel. Based on the panel's report, Judge Hann awarded benefits to Mr. Knecht.

In challenging Judge Hann's decision, Uhaul argues that Judge Hann erred in relying on the medical panel's opinion. Uhaul also argues that Judge Hann's decision fails to provide sufficiently detailed conclusions of law.

FINDINGS OF FACT

The Commission adopts Judge Hann's findings of fact. The facts relevant to the motion for review are that on August 21, 2000, Mr. Knecht slipped from the top of a truck and fell ten to twelve feet to the ground, allegedly causing injury to his left hip. Because of differing medical opinions, the issue of medical causation was referred to a medical panel. The panel concluded that the August 21, 2000, work accident was the medical cause of Mr. Knecht's left hip condition.

DISCUSSION AND CONCLUSION OF LAW

Section 34A-2-401 of the Utah Workers' Compensation Act requires employers and their insurance carriers to provide medical and disability benefits to each employee "injured . . . by accident arising out of and in the course of the employee's employment." In order to establish that his or her injury "arises out of" of employment, an injured worker must prove that the work accident or exertion is both the "legal cause" and the "medical cause" of the injury. Allen v. Industrial Commission, 729 P. 2d 15, 27 (Utah 1986). The central issue in dispute in the motion for review is whether the work accident medically caused Mr. Knecht's hip condition.

Uhaul argues that the evidence does not support Judge Hann's finding of medical causation because the medical panel's report, which Judge Hann relied on, failed to state its findings in terms of "medical probability." The Utah Supreme Court has explained that when an award for benefits relies on a determination of medical causation, medical statements of possibilities, such as "might have" or "could have," are too speculative and cannot alone provide sufficient medical evidence on causation. See Moore v. Denver & Rio Grande Western Railroad Company, 292 P.2d 849, 851 (1956), Chief Consolidated Mining Co. v. Salisbury, 61 Utah 66, 210 P. 929 (1929). The court further explained that under longstanding Utah law, a complainant "retains the burden of proving his damages by competent evidence to an extent where the trier of fact could discover that which is *probably* true." Moore at 851 (emphasis added). Uhaul contends that the medical panel's opinion does not meet this standard.

The panel's report included two observations wherein the panel used the term "could" in explanation. Had the medical panel's report only consisted of those speculative observations, the report alone would not have been sufficient to establish medical causation. However, the report does make more affirmative conclusions. Specifically, the panel concluded: "[t]he panel feels that there is a direct medically demonstrable causal connection between the petitioner's left hip condition as was reported by Dr. Hanseen on 12 April 2006 and the injury of 12 August 2000." The Commission finds that the medical panel report, when taken as a whole, opines with reasonable medical probability that Mr. Knecht's hip condition was medically caused by the work accident. The Commission concludes that the panel report, together with the opinion of Mr. Knecht's doctor, establishes that the work accident caused Mr. Knecht's left hip condition.

Uhaul also argues that Judge Hann's conclusions of law are inadequate because they fail to explain the reasoning underlying the decision. The Commission recognizes that Judge Hann's conclusions were brief and did not provide an explanation of her reasoning; however, the Commission is satisfied that Judge Hann's decision is sufficient, as supplemented by this decision. Based on the foregoing, the Commission affirms Judge Hann's order.

ORDER

The Commission affirms Judge Hann's decision. It is so ordered.

Dated this 30th day of April, 2008.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.